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through partnership

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February 10, 2023

Via ECF

Hon. Louis L. Stanton
United States District Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: *Dresser-Rand Co. v. Petróleos de Venezuela, S.A., et al.*, No. 19-cv-02689-LLS

Dear Judge Stanton:

Since the commencement of this action, this firm has been counsel of record for Dresser-Rand Company, the current plaintiff in this action. We are also counsel for Siemens Energy, Inc. ("SEI"), the entity we respectfully request be substituted in as plaintiff in this action as a result of the recent merger of Dresser-Rand Company into SEI. We write pursuant to Rule 2.A of Your Honor's Individual Practices in connection with Dresser-Rand Company's forthcoming motion to substitute SEI for Dresser-Rand Company as the plaintiff in this case pursuant to Federal Rule of Civil Procedure 25(c). We have conferred with counsel for defendants Petróleos de Venezuela, S.A. ("PDVSA"), and PDVSA Petróleo, S.A. ("Petróleo"), who has stated that they do not object to the requested substitution.

On May 29, 2020, this Court entered a judgment in favor of Dresser-Rand Company and against Petróleo in the amount of \$149,517,709.96 (the "Petróleo Judgment"). (ECF No. 79) On July 9, 2021, the U.S. Court of Appeals for the Second Circuit affirmed the Petróleo Judgment. *See Dresser-Rand Co. v. PDVSA Petróleo, S.A.*, No. 20-1990, 2021 U.S. App. LEXIS 20345 (2d Cir. July 9, 2021). No party sought review in the Supreme Court of the United States. Thus, all proceedings with respect to the Petróleo Judgment have concluded.

On December 9, 2021, this Court entered a judgment in favor of Dresser-Rand Company and against PDVSA in the amount of USD \$166,082,240.21, plus post-judgment interest at the rate of 8.5% per annum (the "PDVSA Judgment") pursuant to Section 2.04 of the Note Agreement. (ECF No. 152) PDVSA filed a notice of appeal from the PDVSA Judgment, and PDVSA's appeal is currently pending before the U.S. Court of Appeals for the Second Circuit.¹

While PDVSA's appeal of the PDVSA Judgment was pending, Dresser-Rand Company was merged into SEI. SEI, a Delaware corporation, is a wholly owned subsidiary of Siemens Energy Global GmbH & Co. KG, a German company, which in turn is a wholly owned subsidiary of Siemens Energy AG, a publicly traded corporation. Prior to the merger, Dresser-Rand Company had been a general

¹ An application to substitute SEI for Dresser-Rand Company also will be filed with the Second Circuit.

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partnership whose partners were (1) Dresser-Rand LLC and (2) Dresser-Rand Group Inc., a wholly owned subsidiary of SEI. On December 19, 2022, prior to the effective date of the merger, Dresser-Rand Company assigned the PDVSA Judgment to SEI, a copy of which assignment was served on PDVSA on February 8, 2023. (See **Exhibit A**, Assignment of Judgment.)

Federal Rule of Civil Procedure 25(c) states, “If an interest is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party.” Fed. R. Civ. P. 25(c). “Courts will frequently grant substitution where a party has fully transferred its interest to another person or entity.” *United States SEC v. Collector’s Coffee Inc.*, 451 F. Supp. 3d 295, 297-98 (S.D.N.Y. 2020) (citing cases). Even when an appeal is pending, the district court “has jurisdiction over [a] substitution motion as a supplementary proceeding to enforce the Judgment.” *Cessna Fin. Corp. v. Al Ghaith Holding Co. PJSC*, 2021 U.S. Dist. LEXIS 28562, at *7 (S.D.N.Y. Feb. 16, 2021).

For these reasons, Dresser-Rand Company (as the current plaintiff) and SEI (as the transferee) respectfully request that the Court grant the motion to substitute SEI for Dresser-Rand Company as the plaintiff in this action. In light of PDVSA’s lack of objection to this motion, and in the interest of efficiency and judicial economy, the movants request that the Court decide this motion based on this letter and the accompanying Assignment of Judgment. Should the Court require a pre-motion conference, we will of course participate in a pre-motion conference at the Court’s convenience.

Respectfully submitted,

/s/ Jordan W. Siev

Jordan W. Siev

cc: All Counsel of Record (via ECF)